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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,442	07/17/2003	Youichi Sawachi	FSF-03381	2091
21254 7590 04/16/2008 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
EXAMINER				
YODER III, CHRIS S				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/620,442

Applicant(s)

SAWACHI, YUICHI

Examiner

CHRISS S. YODER III

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed December 28, 2007 have been fully considered but they are not persuasive.

1. Applicant argues, that Suzuki discloses that transmitting side automatically produces the subordinate image in the received mode (step S213), and transmits the produced subordinate image (step S214) (col. 20, lines 24-26). Therefore, process "S313-S213" is different from, and fails to teach or disclose, setting whether an intermediate image is to be carried out, as claimed in the claimed invention. Therefore, Suzuki's system basically includes selecting an area within an image (cropping) and automatically transmitting the cropped area to the transmitting side without setting whether or not a generation of an intermediate image is to be carried out, as claimed in the claims 1, 8, and 14. And thus, instead of teaching or suggesting, "a setting component for setting whether or not a generation of an intermediate image is to be carried out," as recited in claims 1, and similarly recited in claims 8 and 14, Suzuki merely teaches cropping an image and automatically transferring the cropped image to a transmitting side of a digital camera.

The Examiner agrees that Suzuki discloses that step S211 automatically produces the subordinate image. However, the Examiner notes that the subordinate image is not automatically created **until there is a request** to do so (column 20, lines 13-16, "the subordinate image is automatically produced and transmitted in real time in response to a request from the receiving side"). Therefore, the subordinate image is not

always automatically produced, but rather it is only produced when "a setting component for setting whether or not a generation of an intermediate image is to be carried out" is set to generate the intermediate image.

2. Applicant also argues, with respect to claim 8, that Suzuki does not teach or suggest, "a communicating component for communicating with the personal computer, wherein the personal computer can be used to set the setting component via the communicating component", and that Suzuki simply teaches transmitting the obtained data via a telephone line or a radio line and is silent about communicating with a personal computer in the setting process.

However, the Examiner notes that Suzuki discloses that the image data is stored in a format that is to be used by a personal computer (column 2, line 61 – column 3, line 3, column 9, line 65 – column 10, line 47, and column 15, lines 15-43). Therefore, since the image data to be transmitted is stored in a format to be read by a personal computer, the receiving device is considered to be a personal computer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (US Patent # 5,721,579) in view of Umeiyama (US Patent # 7,227,576).**

4. In regard to **claim 1**, note Suzuki discloses the use of a digital camera comprising a photographing component for photographing a subject (column 9, lines 1-20 and figure 1), a setting component for setting whether or not a generation of an intermediate image is to be carried out (column 20, lines 17-48 and figure 37: S313→S213; the transmitting side sets whether an intermediate image is created based on an area selection that is sent to the receiving side), an intermediate image generating component for generating, when the intermediate image generation is set by the setting component, the intermediate image (column 20, lines 17-48 and figure 38: c2), and a storage component for storing an original image photographed by the photographing component and, if generated, the generated intermediate image (column 10, lines 10-30 and figure 2c).

Therefore, it can be seen that Suzuki fails to explicitly disclose that the intermediate image has a resolution between an original image and a thumbnail image. Umeyama discloses the use of an intermediate image having a resolution between an original image and a thumbnail image (column 7, lines 16-39 and figure 4). Umeyama teaches that the use of an intermediate image having a resolution between an original image and a thumbnail image is preferred in order to reduce the length of time required to display a clear image by loading the intermediate image rather than the full size image (column 10, lines 4-23). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Suzuki device such that the intermediate image has a resolution between the original image and a thumbnail image in order to reduce the

length of time required to display a clear image by loading the intermediate image rather than the full size image, as suggested by Umeyama.

5. In regard to **claim 2**, note Suzuki discloses that the setting component sets a size of the intermediate image to be generated (column 18, lines 10-20 and figures 29-31).

6. In regard to **claim 3**, note the primary reference of Suzuki in view of Umeyama discloses the use of a digital camera that creates an intermediate image having a resolution smaller than the original image, as claimed in claim 1 above. Therefore, it can be seen that the primary reference of Suzuki in view of Umeyama fails to disclose that the intermediate image is approximately 1/3 the size of the original image. Official Notice is taken that the concepts and advantages of using of an intermediate image that is approximately 1/3 the size of an original image are notoriously well known and expected in the art in order to reduce the storage space required and increase transfer speeds. Therefore it would have been obvious to one of ordinary skill to modify the primary device such that the intermediate image is approximately 1/3 the size of the original image in order to reduce the storage space required and increase transfer speeds while providing an image that is still recognizable to the user.

7. In regard to **claim 4**, note Suzuki discloses that the setting component further sets whether or not generation of a thumbnail image is to be carried out, wherein a thumbnail image generating component, for generating the thumbnail image when thumbnail image generation is set by the setting component, is disposed, and wherein

the storage component stores, if generated, the generated thumbnail image (column 13, line 47 – column 14, line 54 and figure 38: a2).

8. In regard to **claim 5**, note Suzuki discloses that a setting component sets the size of the thumbnail image to be generated (column 14, lines 55-67).

9. In regard to **claim 6**, note Suzuki discloses that the thumbnail image is generated by sampling pixels at predetermined intervals (column 14, lines 19-23).

10. In regard to **claim 7**, note Suzuki discloses that the thumbnail image is generated using an image reduction algorithm (column 14, lines 45-52).

11. In regard to **claim 8**, note Suzuki discloses the use of a photographing system comprising a digital camera (column 9, lines 1-20 and figure 1) and a machine-readable medium encoded with a set of medium-readable instructions for use on a personal computer (column 9, line 60 – column 10, line 47, since the image data to be transmitted is stored in a format to be read by a personal computer, the receiving device is considered to be a personal computer), wherein the digital camera includes a photographing component for photographing a subject (column 9, lines 4-7), a setting component for setting whether or not to generation of an intermediate image is to be carried out (column 20, lines 17-48 and figure 37: S313→S213; the transmitting side sets whether an intermediate image is created based on an area selection that is sent to the receiving side), the intermediate image generating component for generating, when intermediate image generation is set by the setting component, an intermediate image (column 20, lines 17-48 and figure 38: c2), a storage component for storing an original image photographed by the photographing component and the generated intermediate

image (column 10, lines 10-30 and figure 2c), and a communicating component for communicating with the personal computer (column 19, lines 58-62), and wherein the personal computer can be used to set the setting component via the communicating component (column 20, lines 17-48 and figure 38: b2; the transmitting side sets whether an intermediate image is created based on an area selection that is sent to the receiving side).

Therefore, it can be seen that Suzuki fails to explicitly disclose that the intermediate image has a resolution between an original image and a thumbnail image. Umeyama discloses the use of an intermediate image having a resolution between an original image and a thumbnail image (column 7, lines 16-39 and figure 4). Umeyama teaches that the use of an intermediate image having a resolution between an original image and a thumbnail image is preferred in order to reduce the length of time required to display a clear image by loading the intermediate image rather than the full size image (column 10, lines 4-23). Therefore, it would have been obvious to one of ordinary skill in the art to modify the Suzuki device such that the intermediate image has a resolution between the original image and a thumbnail image in order to reduce the length of time required to display a clear image by loading the intermediate image rather than the full size image, as suggested by Umeyama.

12. In regard to **claim 9**, note Suzuki discloses that the setting component sets a size of the intermediate image to be generated (column 18, lines 10-20 and figures 29-31).

13. In regard to **claim 10**, note the primary reference of Suzuki in view of Umeyama discloses the use of a photographing system that creates an intermediate image having a resolution smaller than the original image, as claimed in claim 8 above. Therefore, it can be seen that the primary reference of Suzuki in view of Umeyama fails to disclose that the intermediate image is approximately 1/3 the size of the original image. Official Notice is taken that the concepts and advantages of using of an intermediate image that is approximately 1/3 the size of an original image are notoriously well known and expected in the art in order to reduce the storage space required and increase transfer speeds. Therefore it would have been obvious to one of ordinary skill to modify the primary device such that the intermediate image is approximately 1/3 the size of the original image in order to reduce the storage space required and increase transfer speeds while providing an image that is still recognizable to the user.

14. In regard to **claim 11**, note Suzuki discloses that the setting component sets whether or not generation of a thumbnail image is to be carried out, wherein a thumbnail image generating component, for generating the thumbnail image when thumbnail image generation is set by the setting component, is disposed in the digital camera, and wherein the storage component stores the generated thumbnail image (column 13, line 47 – column 14, line 54 and figure 38: a2).

15. In regard to **claim 12**, note Suzuki discloses that the setting component sets a size of the thumbnail image to be generated (column 14, lines 55-67).

16. In regard to **claim 13**, note Suzuki discloses that the thumbnail image is generated by sampling pixels at predetermined intervals (column 14, lines 19-23).

17. In regard to **claims 14-20**, these are method claims, corresponding to the apparatus in claims 1-7, respectively. Therefore, claims 14-20 have been analyzed and rejected as previously discussed with respect claims 1-7.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CHRISS S. YODER III** whose telephone number is (571)272-7323. The examiner can normally be reached on M-F: 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. S. Y./
Examiner, Art Unit 2622

/Tuan V Ho/
Primary Examiner, Art Unit 2622